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**Sent:** Thursday, April 9, 2020 6:34 PM

**To:** NYSBMID\_CaseFiling <[CaseFiling@nysb.uscourts.gov](mailto:CaseFiling@nysb.uscourts.gov)>

**Subject:** RE: Notice of Hearing Docket #60498 Consideration Case 08-13555 Lehman Brothers Holdings Inc.

Dear Honorable Judge Chapman,

I am writing you this electronic letter in regards to the "Notice of Hearing" with the date set for June 3<sup>rd</sup>, 2020 at 10am, docket #60498. My request was for a hearing regarding docket #60484 only, which is the Motion for Summary Judgment. When the Notice of Hearing was issued, docket #60448 "Motion to Reserve" is now included.

Additionally, within the "Notice of Hearing," responses for both motions are due by May 18<sup>th</sup>, 2020. The Plan Administrator failed to respond to the Motion to Reserve within the period of time of 21 days as per Federal Rules of Civil Procedures Pursuant to Rule 12(a)(1)(A)(i). The Plan Administrator was served on February 19<sup>th</sup>, 2020 (details on docket #60484) and responded to the Motion to Reserve on March 24<sup>th</sup>, 2020 which is 34 days from the date of service. The Plan Administrator should not be given the opportunity to respond to the Motion to Reserve because of the failure to act. Allowing the Plan Administrator to respond to the Motion to Reserve would trump the Motion for Summary Judgment and put my arguments at a disadvantage because it would equate to giving the Plan Administrator a free pass.

I request that the Honorable Court set the hearing as per my original request to only include docket # 60484, Motion for Summary Judgment and exclude docket #60448, Motion to Reserve. The Motion for Summary Judgment should be given priority given the Plan Administrator did not comply with Federal Rules of Civil Procedures Pursuant to Rule 12(a)(1)(A)(I).

Thank you for your consideration.

Respectfully and sincerely,

Joseph Waske

REQUEST DENIED. Hearing shall proceed as noticed per Docket 60498.

Date: April 14, 2020

/S/ Shelley C. Chapman  
UNITED STATES BANKRUPTCY JUDGE